

United States District Court
Eastern District of Michigan

United States of America

ORDER OF DETENTION PENDING TRIAL

v.

SOLOMON NETHANIEL /

Case Number: 09-20215-7

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

☐ (1) I find that:

- ☐ there is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- ☐ under 18 U.S.C. § 924(c).

☐ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

☒ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

☐ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

☒ I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- ☒ (a) nature of the offense - Mr. Nethaniel is charged in 12 counts of a 13 count indictment for large scale health care benefits fraud and money laundering. Two of the primary co-conspirators have fled from the United States.
- ☒ (b) weight of the evidence - The indictment establishes probable cause and the evidence appears to be strong.
- ☒ (c) history and characteristics of the defendant - Defendant is a foreign national (India) and has no lawful status in this country. He will certainly be excluded upon conviction.
 - ☒ 1) physical and mental condition - Good health.
 - ☒ 2) employment, financial, family ties - Has wife and 3 children in the United States and substantial family ties in India as well
 - ☒ 3) criminal history and record of appearance - No criminal history.
- ☐ (d) probation, parole or bond at time of the alleged offense -
- ☐ (e) danger to another person or community -

Defendant has no lawful status in the United States and is subject to exclusion. He will certainly be deported if he is convicted, and the evidence appears to be strong. The government asserts that millions of dollars were obtained by the conspiracy and remains unaccounted for. Defendant admits to significant assets which could be used to abscond. Two primary defendants have already fled the country. Upon conviction, Defendant faces a lengthy prison sentence. As he would have no prospect of remaining in the United States, he has a strong motivation to escape that punishment. Although Pretrial Services recommends bond, I consider this defendant a flight risk. The Canadian border is easily crossed, even without documents. Defendant's only employment is in the health care industry, which was the vehicle of the charged fraud.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: June 25, 2009

s/Donald A. Scheer

Signature of Judge

Donald A. Scheer, United States Magistrate Judge

Name and Title of Judge